




Memorandum

To: Rules Committee

From: Mayor Chuck Reed and
Councilmember Pete Constant

Subject: CLOSED SESSION
DISCUSSIONS

Date: June 21, 2007

Approved:  Chuck Reed

Recommendation:

We recommend that the Rules committee discuss whether or not decisions to file *amicus curiae* briefs on behalf of the City should be made in open session unless there is a compelling reason to have the decision made in closed session.

Background:

From time to time it is appropriate for the City Council to direct the City Attorney to file an *amicus curiae* brief on behalf of the City. *Amicus curiae* is Latin for "friend of the court" and is the name given to pleadings that are filed by a party that is not involved in a particular litigation but that is allowed by the court to advise it on a matter of law directly affecting the litigation. The City files *amicus curiae* pleadings when there is a legal question at issue that potentially affects City policy. These pleadings often represent public policy positions that the City Council takes on behalf of the City. Because these directions represent public policy positions it is appropriate for the direction to file them to be made within public view. Therefore, direction to file these pleadings should be given in open session during public hearings, so that the City Council has the benefit of public input prior making decisions on legal positions that represent the City's interest.

This has not been the City Council's tradition. However, since these pleadings do not involve the City in the litigation to an extent that would create a financial liability, we do not believe that privilege offered by closed session is necessary.